

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**Eastern Plating Company, Inc.
1200 South Baylis Street
Baltimore, Maryland 21224**

Respondent

**7803 Pulaski Highway
Baltimore, Maryland 21237
EPA Facility ID No. MD0000136366**

And

**1200 South Baylis Street
Baltimore, Maryland 21224
EPA Facility ID No. MDD063215453**

Facilities

Docket No. RCRA-03-2010-0259

**Proceeding under Section 3008(a) and
(g) of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a) and (g)**

CONSENT AGREEMENT

This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA", "Agency" or "Complainant") and Eastern Plating Company, Inc. ("Eastern Plating" or "Respondent") pursuant to Section 3008(a) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments ("HSWA") of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

This Consent Agreement ("CA") and the accompanying Final Order ("FO") address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921- 6939e, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the State of Maryland Hazardous Waste Management Regulations ("MdHWMR"), set forth at the Code of Maryland Regulations ("COMAR"), Title 26, Subtitle 13 *et seq.*, in connection with Respondent's facilities located at 7803 Pulaski Highway, Baltimore, Maryland 21237 and 1200 South Baylis Street, Baltimore, Maryland 21224 (collectively, the "Facilities"). The MdHWMR were originally authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA,

42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13 were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

I. GENERAL PROVISIONS

1. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached FO (hereinafter jointly referred to as this "CAFO") simultaneously commence and conclude an administrative proceeding against Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's Facilities.
2. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
3. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 2, above.
4. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
5. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
6. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
7. Each party shall bear its own costs and attorney's fees in connection with this proceeding.
8. The settlement agreed to by the parties in this Consent Agreement reflects their desire to resolve this matter without the expense and burden of litigation.

II. Notice of Action to the State of Maryland

9. On May 28, 2008, EPA sent a letter to the State of Maryland, through the Maryland Department of the Environment ("MDE"), providing prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

III. Findings of Facts and Conclusions of Law

10. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the findings of fact and conclusions of law as set forth below.
11. The United States Environmental Protection Agency's Office of Administrative Law Judges has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42

U.S.C. § 6928(a) and (g), and 40 C.F.R. § 22.1(a)(4) and .4(c).

12. Respondent, Eastern Plating, is a Maryland corporation and is a “person” as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and COMAR 26.13.01.03B.
13. Respondent is and has been, at all times relevant to the allegations set forth in this CAFO, the “owner” and “operator” of a “facility” located at 1200 South Baylis Street, Baltimore, Maryland 21224 as these terms are defined by COMAR 26.13.01.03B. Such facility is hereinafter referred to as the “Baylis Facility”.
14. Respondent is and has been, at all times relevant to the allegations set forth in this CAFO, en the “owner” and “operator” of a “facility” located at 7803 Pulaski Highway, Baltimore, Maryland 21237 as these terms are defined by COMAR 26.13.01.03B. Such facility is hereinafter referred to as the “Pulaski Facility”.
15. Respondent is and has been, at all times relevant to the allegations set forth in this CAFO, a “generator” of, and has engaged in the “storage” of, materials that are “solid wastes” and “hazardous wastes” at the Facilities as those terms are defined by COMAR 26.13.01.03B, as described below.
16. On December 11, 2007, EPA representatives conducted Compliance Evaluation Inspections (“CEI”) of the Baylis and Pulaski Facilities.
17. On February 4, 2008, EPA sent Respondent an information request letter (“IRL”) pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), regarding generation and management of hazardous wastes observed during EPA’s December 11, 2007 CEIs of the Pulaski and Baylis Facilities. EPA also sent Respondent additional requests for information concerning these facilities in correspondence dated April 3, 2008, April 21, 2008, May 8, 2008, May 12, 2008, July 8, 2008, July 9, 2008 and July 10, 2008. Respondent replied to these requests in letters dated March 17, 2008 and April 28, 2008, and emails dated May 19, 2008, July 8, 2008, July 9, 2008, and July 11, 2008.
18. On March 18, 2009, EPA sent Respondent a “Request to Show Cause” letter providing Respondent with an opportunity to discuss alleged violations of Subtitle C of RCRA and the MdHWMR at the Pulaski and Baylis Facilities set forth in the letter. Respondent and EPA met to discuss the alleged violations on April 7, 2009 and Respondent sent EPA a letter dated May 5, 2009, explaining its position concerning the alleged violations set forth in EPA’s March 18, 2009 Show Cause letter and supplied additional information relevant to the issues associated with such allegations.

BAYLIS FACILITY

COUNT I

(Operating a Hazardous Waste Storage Facility without a Permit or Interim Status)

19. The allegations of Paragraphs 1 through 18 of the CAFO are incorporated herein by

reference as though fully set forth at length.

20. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and COMAR 26.13.07.01A, provide, with certain exceptions not relevant to the violations alleged herein, that a person may not operate a hazardous waste treatment, storage or disposal facility ("TSDF") facility unless such person has first obtained a permit for the facility.
21. RCRA § 3005(e), 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.*, "interim status") until such time as final administrative disposition of such application is made.
22. Respondent's Baylis Facility has never had "interim status" pursuant to RCRA Section 3005(e) or COMAR 26.13.06 or a permit issued pursuant to RCRA Section 3005(a) or COMAR 26.13.07 for the treatment, storage, or disposal of hazardous waste.
23. Pursuant to COMAR 26.13.03.05E(1), generators of hazardous waste who accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
 - a. Pursuant to COMAR 26.13.03.05E(1)(b), the generator must accumulate the waste in containers, tanks, or certain drip pads;
 - b. Pursuant to COMAR 26.13.03.05E(1)(d), the generator must accumulate the hazardous waste in containers in accordance with COMAR 26.13.05.09, which requires, *inter alia*, the containers must be closed during storage of hazardous waste except when it is necessary to add or remove waste (26.13.05.09D), and performing inspections of areas where containers of hazardous waste are stored at least weekly (26.13.05.09E);
 - c. Pursuant to COMAR 26.13.03.05E(1)(e), the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container of hazardous waste;
 - d. Pursuant to COMAR 26.13.03.05E(1)(f), each container must be, *inter alia*, labeled or marked clearly with the words "Hazardous Waste", while being accumulated on site;
 - e. Pursuant to COMAR 26.13.03.05E(1)(g), the generator, complies with the requirements for owners or operators in COMAR 26.13.05.02G, .03, and .04. COMAR 26.13.05.02G requires the owners or operators to, *inter alia*,

- i. Provide its employees with hazardous waste training; and
 - ii. Prepare and maintain hazardous waste training records; and
 - f. Pursuant to COMAR 26.13.03.05E(1)(k):
 - i. The generator maintains an inspection log or summary documenting inspections performed in accordance with .05E(1)(d) and (h) [concerning storage in containers and tanks];
 - ii. The log or summary includes the date and time of each inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or other remedial actions taken; and
 - iii. The generator keeps the log on file for a minimum of three years from the date of the inspection.
24. COMAR 26.13.03.05E(3) of the MdHWMR contains an additional exemption from the permitting requirements for the satellite accumulation of as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste in containers at or near the point of generation where wastes initially accumulated and which is under the control of the generator provided that the generator complies with COMAR 26.13.05.09B – D and marks the container with the words “Hazardous Waste” or with other words that identify the contents of the container.
25. COMAR 26.13.05.09D, referenced in COMAR 26.13.03.05E(1)(d) and 26.13.05.09E and Paragraphs 23 and 24, above, pertains to the “Management of Containers” and provides that “[a] container holding hazardous waste shall always be kept closed during storage, except when it is necessary to add or remove waste, and the container may not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.”
26. At the time of the violations alleged in this CA, Respondent was not eligible for an exemption under COMAR 26.13.03.05E(1) or .05E(3) with respect to the on-site storage of the hazardous waste described below at its Baylis Facility because it did not meet the following conditions of these exemptions:
- a. Respondent failed to properly label as “Hazardous Waste” four 55-gallon containers of chromic acid, a hazardous waste exhibiting the characteristics of corrosivity (D002) and toxicity (D005, D007, and D008) pursuant to COMAR 26.13.02.12 and .14. The hazardous wastes in these four containers were generated at Respondent’s Baylis Facility and stored on site for more than 90 days;
 - b. Respondent generated and stored at its Baylis Facility for more than 90 days six 55-gallon containers of spent methyl ethyl ketone (“MEK”), a hazardous waste

exhibiting the characteristic of ignitability (D001) pursuant to COMAR 26.13.02.11 and a listed hazardous waste (F005) pursuant to COMAR 26.13.02.16;

- c. Respondent generated and stored at its Baylis Facility for more than 90 days three 55-gallon containers of spent MEK (D001, F005);
 - d. At the time of the December 11, 2007 Baylis Facility CEI, Respondent was storing spent MEK waste ("lacquer saturated MEK") (D001, F005) in one 55-gallon container which was not properly labeled as "Hazardous Waste" or with any other words identifying its contents and which failed to include a waste accumulation start date on the container;
 - e. At the time of the December 11, 2007 Baylis Facility CEI, Respondent was storing spent chromium contaminated filters, a hazardous waste exhibiting the characteristic of toxicity (D007) pursuant to COMAR 26.13.02.14, in one 55-gallon container which Respondent failed to properly label and mark as "Hazardous Waste" or with any other words identifying its contents and which failed to include a waste accumulation start date on the container. In addition, although no waste was being added to or removed from the container, the container was open at the time of inspection;
 - f. At the time of the December 11, 2007 Baylis Facility CEI, Respondent was generating and storing rags contaminated with spent MEK (D001, F005) in a 20-gallon container that was not properly labeled as "Hazardous Waste" or with any other words identifying the contents of the container and which did not have an accumulation start date on the container;
 - g. For calendar years 2004, 2005, 2006 and 2007, Respondent had failed to provide hazardous waste training to its Baylis Facility employees and, at the time of the December 11, 2007 Baylis Facility CEI, it had failed to prepare and maintain hazardous waste training records; and
 - h. At the time of the December 11, 2007 Baylis Facility CEI, Respondent did not have a weekly hazardous waste inspection log documenting the last three years of such hazardous waste inspections.
27. As set forth above in Paragraph 26, from 2004 through June 3, 2008, Respondent was storing hazardous waste at the Baylis Facility without a permit, interim status or valid exemption and therefore violated COMAR 26.13.07.01A and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or interim status.

COUNT II

(Failure to Keep Containers Closed During Storage)

28. The allegations of Paragraphs 1 through 27 of the CAFO are incorporated herein by reference as though fully set forth at length.
29. COMAR 26.13.05.09D provides that a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.
30. At the time of the December 11, 2007 Baylis Facility CEI, Respondent was storing an open 55-gallon container of hazardous waste at the Facility as described in Paragraph 26.e, above.
31. Respondent's acts and/or omissions as alleged in Paragraph 30, above, constitute a violation of COMAR 26.13.05.09D.

COUNT III

(Failure to Maintain an Inspection Log or Summary of Weekly Inspections)

32. The allegations of Paragraphs 1 through 31 of the CAFO are incorporated herein by reference as though fully set forth at length.
33. COMAR 26.13.05.09E provides that the owner or operator of a hazardous waste TSDF shall inspect areas where hazardous waste containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.
34. COMAR 26.13.05.02F(4) provides that the owner or operator of a hazardous waste TSDF shall record weekly inspections in an inspection log or summary and shall keep such records for at least three years from the date of inspection. Such records shall include, at a minimum, the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.
35. At the time of the December 11, 2007 Baylis Facility CEI, Respondent did not have a hazardous waste inspection log documenting the last three years of such weekly hazardous waste inspections as described in Paragraph 34, above.
36. Respondent's act and/or omission as alleged in Paragraph 35, above, constitutes a violation of COMAR 26.13.05.02F(4).

COUNT IV

(Failure to Provide Hazardous Waste Training)

37. The allegations of Paragraphs 1 through 36 of the CAFO are incorporated herein by reference as though fully set forth at length.

38. COMAR 26.13.05.02G(1) requires the owners or operators of a TSDF to ensure that, *inter alia*, facility personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the hazardous waste management requirements of COMAR 26.13.05.
39. COMAR 26.13.05.02G(3) requires the owners or operators of a TSDF to ensure that, *inter alia*, facility personnel take part in an annual review of the initial training required by COMAR 26.13.05.02G(1).
40. Respondent employed personnel at its Baylis Facility who were required to have initial and/or annual hazardous waste management refresher training for the calendar years 2004, 2005, 2006 and 2007.
41. Respondent failed to provide its Baylis Facility personnel with initial and/or annual hazardous waste management refresher training for calendar years 2004, 2005, 2006 and 2007.
42. Respondent's acts and/or omissions as alleged in Paragraph 41, above, constitute four violations of COMAR 26.13.05.02G.

COUNT V

(Failure to Prepare and Maintain Hazardous Waste Training Records)

43. The allegations of Paragraphs 1 through 42 of the CAFO are incorporated herein by reference as though fully set forth at length.
44. COMAR 26.13.05.02G(4) requires the owners or operators of a TSDF to prepare and maintain the following documents and records at the facility:
 - a. The job title of each position at the facility related to hazardous waste management, and the name of the employee filling each job;
 - b. A written job description for each position listed under COMAR 26.13.05.02G(4)(a) including the requisite skill, education, and other qualifications and duties of employees assigned to each position;
 - c. A written description of the type and amount of both introductory and continuing training that will be given to each position listed under COMAR 26.13.05.02G(4)(a); and
 - d. Records that document the training or job experience required under COMAR 26.13.05.02G(1), (2), and (3) has been given to, and completed by, facility personnel.

45. At the time of the December 11, 2007 Baylis Facility CEI, Respondent failed to:
- a. Maintain records which included the documented job title and written job description for each position related to hazardous waste management, and the name of each employee assigned to each such job;
 - b. Maintain a written description of the type and amount of both introductory and continuing training that will be given to each person assigned to a position related to hazardous waste management; and
 - c. Maintain records which document that the training or job experience has been given to, and completed by, Baylis Facility personnel engaged in hazardous waste management.
46. Respondent's acts and/or omissions as alleged in Paragraph 45, above, constitute a violation of COMAR 26.13.05.02G(4).

COUNT VI

(Failure to Prepare and/or Maintain LDR Notification Forms)

47. The allegations of Paragraphs 1 through 46 of the CAFO are incorporated herein by reference as though fully set forth at length.
48. 40 C.F.R. § 268.7(a)(1) requires generators of hazardous waste to determine if the waste must be treated before it can be land disposed.
49. 40 C.F.R. § 268.7(a)(2) requires generators of hazardous waste who determine that the waste does not meet applicable treatment standards or who choose not to make the determination of whether such waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice setting forth the information in the column "268.7(a)(2)" of the Generator Paperwork Requirements Table in 40 C.F.R. § 268.7(a)(4) to each treatment or storage facility receiving the waste and maintain a copy of each such LDR form. Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make that determination."
50. Respondent shipped ten 55-gallon containers of spent MEK (D001, F005), a hazardous waste, in nine shipments from its Baylis Facility to its Pulaski Facility between September 30, 2006 and November 13, 2007.
51. Respondent failed to prepare and maintain a one-time LDR notification for the shipments of spent MEK (D001, F005) it sent from its Baylis Facility to its Pulaski Facility between September 30, 2006 and November 13, 2007 as set forth above in Paragraph 50.

52. Respondent's acts and/or omissions as alleged in Paragraph 51, above, constitute a violation of 40 C.F.R. § 268.7(a).

COUNT VII

(Failure to Make a Hazardous Waste Determination)

53. The allegations of Paragraphs 1 through 52 of the CAFO are incorporated herein by reference as though fully set forth at length.
54. COMAR 26.13.03.02A requires that generators of "solid waste" as defined in COMAR 26.13.02.02 shall determine if that waste is a "hazardous waste" using the method set forth in COMAR 26.13.03.02A. This method requires the generator to:
- a. First determine if the waste is excluded from regulation under COMAR 26.13.02.04-.4.5;
 - b. Then determine if the waste is listed as a hazardous waste in COMAR 26.13.02.15-.19; and
 - c. If the waste is not listed as a hazardous waste in COMAR 26.13.02.15-.19, the generator shall determine whether the waste is identified by either testing the waste according to the methods set forth in COMAR 26.13.02.10-.14, or, according to an equivalent method approved by the MDE under COMAR 26.13.01.04B, or apply knowledge of the hazardous characteristic of the waste in light of the materials or processes used.
55. As the person who generated the solid wastes described in this Count, Respondent was required by COMAR 26.13.03.02A to determine if the solid wastes it generated were hazardous wastes using the method described in Paragraph 54, above.
56. During calendar year 2007, Respondent generated the following solid wastes without making a hazardous waste determination for the wastes prior to disposal in the municipal trash or, in the case of the spent MEK waste in subparagraph e, below, being sent to Respondent's Pulaski Facility:
- a. Used lamps;
 - b. Used aerosol containers;
 - c. Used rags contaminated with spent MEK (D001, F005);
 - d. Cotton swabs and brushes contaminated with spent MEK (D001, F005); and
 - e. Spent MEK waste (D001, F005).
57. Used lamps are hazardous wastes because they exhibit the characteristic of toxicity for

lead and mercury (D008, D009) pursuant to COMAR 26.13.02.14.

58. Used aerosol cans are hazardous wastes because they exhibit the characteristic of ignitability (D001) pursuant to COMAR 26.13.02.11.
59. Used rags contaminated with spent MEK, cotton swabs and brushes contaminated with spent MEK, and spent MEK waste are all hazardous wastes as they exhibit the characteristic of ignitability (D001) and/or reactivity (D003) and are a listed hazardous waste (F005).
60. Respondent's acts and/or omissions as alleged in Paragraph 56, above, constitute five violations of COMAR 26.13.03.02A .

COUNT VIII

(Offering Hazardous Waste to a TSDF Without an EPA Identification Number)

61. The allegations of Paragraphs 1 through 60 of the CAFO are incorporated herein by reference as though fully set forth at length.
62. COMAR 26.13.03.03C prohibits generators of hazardous waste from offering such waste to transporters or to TSDFs that have not received an EPA identification number authorizing them to transport or treat, store or dispose of such waste.
63. Between September 30, 2006 and November 13, 2007 Respondent transported ten 55-gallon containers of spent MEK (D001, F005) from its Baylis Facility to its Pulaski Facility in nine separate shipments for treatment, storage or disposal.
64. Respondent's Pulaski Facility is a TSDF that did not have an EPA identification number at the time Respondent transported these nine shipments of spent MEK wastes.
65. Respondent's acts and/or omissions as alleged in Paragraph 63, above, constitute nine violations of COMAR 26.13.03.03C .

COUNT IX

(Failure to Prepare Hazardous Waste Manifests)

66. The allegations of Paragraphs 1 through 65 of the CAFO are incorporated herein by reference as though fully set forth at length.
67. COMAR 26.13.03.04A(1) requires generators of hazardous waste who transport or offer for transportation, hazardous waste for off-site treatment, storage or disposal, to prepare a hazardous waste manifest on EPA Form 8700-22 or its equivalent state form, before the waste is transported off-site.
68. Between September 30, 2006 and November 13, 2007, Respondent shipped ten 55-gallon containers of spent MEK (D001, F005) from its Baylis Facility to its Pulaski Facility in

nine separate shipments without having prepared a hazardous waste manifest (EPA Form 8700-22 or State equivalent) for such shipments.

69. Respondent's acts and/or omissions as alleged in Paragraph 68, above, constitute nine violations of COMAR 26.13.03.04A(1).

COUNT X

(Transporting Hazardous Waste Without an EPA Identification Number)

70. The allegations of Paragraphs 1 through 69 of the CAFO are incorporated herein by reference as though fully set forth at length.
71. COMAR 26.13.04.01B(1) prohibits transporters from transporting hazardous waste without having first received an EPA identification number.
72. Between September 30, 2006 and November 13, 2007, Respondent, a transporter, transported ten 55-gallon containers of spent MEK (D001, F005) from its Baylis Facility to its Pulaski Facility in nine separate shipments using one of its vans.
73. Respondent had not received an EPA identification number authorizing it to transport hazardous waste at the time of the above-referenced nine shipments of spent MEK hazardous waste.
74. Respondent's acts and/or omissions as alleged in Paragraph 72, above, constitute nine violations of COMAR 26.13.04.01B(1).

PULASKI FACILITY

COUNT XI

(Operating a Hazardous Waste Storage Facility Without a Permit or Interim Status)

75. The allegations of Paragraphs 1 through 74 of the CAFO are incorporated herein by reference as though fully set forth at length.
76. Respondent's Pulaski Facility has never had "interim status" pursuant to RCRA Section 3005(e) or COMAR 26.13.06 or a permit issued pursuant to RCRA Section 3005(a) or COMAR 26.13.07 for the treatment, storage, or disposal of hazardous waste.
77. Respondent's Pulaski Facility accepted ten 55-gallon containers of spent MEK (D001, F005) hazardous waste from its Baylis Facility in nine separate shipments and stored such wastes at the Pulaski Facility between September 30, 2006 and November 13, 2007.
78. From September 30, 2006 through December 11, 2007, Respondent was storing hazardous waste at the Pulaski Facility without a permit, interim status or valid exemption and therefore violated COMAR 26.13.07.01A and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or

interim status.

COUNT XII

(Failure to Keep Containers Closed During Storage)

79. The allegations of Paragraphs 1 through 78 of the CAFO are incorporated herein by reference as though fully set forth at length.
80. At the time of the December 11, 2007 Pulaski Facility CEI, Respondent was storing a 55-gallon container of hazardous waste at the Facility that was open at a time when it was not necessary to add hazardous waste or to remove hazardous waste from such container.
81. Respondent's acts and/or omissions as alleged in Paragraph 80, above, constitute a violation of COMAR 26.13.05.09D.

COUNT XIII

(Failure to Maintain an Inspection Log or Summary of Weekly Inspections)

82. The allegations of Paragraphs 1 through 81 of the CAFO are incorporated herein by reference as though fully set forth at length.
83. At the time of the December 11, 2007 Pulaski Facility CEI, Respondent did not have a hazardous waste inspection log documenting the last three years of weekly hazardous waste inspections of its hazardous waste containers.
84. Respondent's act and/or omission as alleged in Paragraph 83, above, constitutes a violation of COMAR 26.13.05.02F(4).

COUNT XIV

(Failure to Provide Hazardous Waste Training)

85. The allegations of Paragraphs 1 through 84 of the CAFO are incorporated herein by reference as though fully set forth at length.
86. Respondent employed personnel at its Pulaski Facility who were required to have received initial and/or annual hazardous waste management refresher training for the calendar years 2004, 2005, 2006 and 2007.
87. Respondent failed to provide its Pulaski Facility personnel with initial and/or annual hazardous waste management refresher training for calendar years 2004, 2005, 2006 and 2007.
88. Respondent's acts and/or omissions as alleged in Paragraph 87, above, constitute four violations of COMAR 26.13.05.02G.

COUNT XV

(Failure to Prepare and Maintain Hazardous Waste Training Records)

89. The allegations of Paragraphs 1 through 88 of the CAFO are incorporated herein by reference as though fully set forth at length.
90. At the time of the December 11, 2007 Pulaski Facility CEI, Respondent failed to:
- a. Maintain records which included the documented job title and written job description for each position related to hazardous waste management, and the name of each employee assigned to each such job;
 - b. Maintain a written description of the type and amount of both introductory and continuing training that will be given to each person assigned to a position related to hazardous waste management; and
 - c. Maintain records which document that the training or job experience has been given to, and completed by, Pulaski Facility personnel engaged in hazardous waste management.
91. Respondent's acts and/or omissions as alleged in Paragraph 90, above, constitute a violation of COMAR 26.13.05.02G(4).

COUNT XVI

(Failure to Make a Hazardous Waste Determination)

92. The allegations of Paragraphs 1 through 91 of the CAFO are incorporated herein by reference as though fully set forth at length.
93. As the person who generated the solid waste described in this Count, Respondent was required by COMAR 26.13.03.02A to determine if the solid waste it generated was hazardous waste using the method prescribed by COMAR 26.13.03.02A-C.
94. During calendar year 2007, Respondent generated the following solid wastes without making a hazardous waste determination for such wastes prior to disposal in the municipal trash:
- a. Used lamps (D008, D009);
 - b. Used aerosol cans (D001), (D003);
 - c. Used rags contaminated with spent MEK (D001, F005); and
 - d. Cotton swabs and brushes contaminated with spent MEK (D001, F005).
95. Respondent's acts and/or omissions as alleged in Paragraph 94, above, constitute four

violations of COMAR 26.13.03.02A .

COUNT XVII

(Offering Hazardous Waste to a TSDF Without an EPA Identification Number)

96. The allegations of Paragraphs 1 through 95 of the CAFO are incorporated herein by reference as though fully set forth at length.
97. During calendar year 2007, Respondent disposed of the following hazardous wastes from the Pulaski Facility into the City of Baltimore's municipal trash:
- a. Used lamps (D008, D009);
 - b. Used aerosol cans (D001), (D003);
 - c. Used rags contaminated with spent MEK (D001, F005);
 - d. Cotton swabs and brushes contaminated with spent MEK (D001, F005); and
 - e. Spent MEK waste (D001, F005) from the Baylis Facility as referenced in Paragraph 56.e.
98. The City of Baltimore's municipal trash receptacle did not have an EPA Identification Number when Respondent disposed of the hazardous wastes identified above in Paragraph 97.
99. Respondent's acts and/or omissions as alleged in Paragraph 97, above, constitute five violations of COMAR 26.13.03.03C.

IV. CIVIL PENALTY

100. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty of **Fifty Thousand Dollars (\$50,000.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon the mailing or hand-delivery to Respondent of a true and correct copy of this CAFO fully executed by all parties, subject to Paragraph 102 below.
101. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors set forth in RCRA § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), which include the seriousness of the violation and any good faith efforts to comply with applicable requirements, EPA's RCRA Civil Penalty Policy (June 2003) ("Penalty Policy") (which includes the effect of the penalty on Respondent's ability to continue in business), and with the penalty inflation provisions of 40 C.F.R. Part 19.

102. The civil penalty of Fifty Thousand Dollars (\$50,000.00) set forth in Paragraph 100, above, may be paid in twelve (12) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:

- a. 1st Payment: The first payment in the amount of four thousand one hundred and sixty-six dollars and sixty-six cents (\$4,166.66), consisting of a principal payment of \$4,166.66 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- b. 2nd Payment: The second payment in the amount of four thousand two hundred and forty-two dollars (\$4,242.00), consisting of a principal payment of \$4,166.66 and an interest payment of \$75.34, shall be paid within sixty (60) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- c. 3rd Payment: The third payment in the amount of four thousand two hundred dollars and ninety-one cents (\$4,200.91), consisting of a principal payment of \$4,166.66 and an interest payment of \$34.25, shall be paid within ninety (90) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- d. 4th Payment: The fourth payment in the amount of four thousand one hundred and ninety-seven dollars and forty-eight cents (\$4,197.48), consisting of a principal payment of \$4,166.66 and an interest payment of \$30.82, shall be paid within one hundred and twenty (120) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- e. 5th Payment: The fifth payment in the amount of four thousand one hundred and ninety-four dollars and six cents (\$4,194.06), consisting of a principal payment of \$4,166.66 and an interest payment of \$27.40, shall be paid within one hundred and fifty (150) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- f. 6th Payment: The sixth payment in the amount of four thousand one hundred and ninety dollars and sixty-three cents (\$4,190.63), consisting of a principal payment of \$4,166.66 and an interest payment of \$23.97, shall be paid within one hundred and eighty (180) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- g. 7th Payment: The seventh payment in the amount of four thousand one hundred and eighty-seven dollars and twenty-one cents (\$4,187.21), consisting of a principal payment of \$4,166.66 and an interest payment of \$20.55, shall be paid within two hundred and ten (210)

days of the date on which this CAFO is mailed or hand-delivered to Respondent;

- h. 8th Payment: The eighth payment in the amount of four thousand one hundred and eighty-three dollars and seventy-eight cents (\$4,183.78), consisting of a principal payment of \$4,166.66 and an interest payment of \$17.12, shall be paid within two hundred and forty (240) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- i. 9th Payment: The ninth payment in the amount of four thousand one hundred and eighty dollars and thirty-six cents (\$4,180.36), consisting of a principal payment of \$4,166.66 and an interest payment of \$13.70, shall be paid within two hundred and seventy (270) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- j. 10th Payment: The tenth payment in the amount of four thousand one hundred and seventy-six dollars and ninety-three cents (\$4,176.93), consisting of a principal payment of \$4,166.66 and an interest payment of \$10.27, shall be paid within three hundred (300) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- k. 11th Payment: The eleventh payment in the amount of four thousand one hundred and seventy-three dollars and fifty-one cents (\$4,173.51), consisting of a principal payment of \$4,166.66 and an interest payment of \$6.85, shall be paid within three hundred and thirty (330) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- l. 12th Payment: The twelfth payment in the amount of four thousand one hundred and seventy dollars and sixteen cents (\$4,170.16), consisting of a principal payment of \$4,166.74 and an interest payment of \$3.42, shall be paid within three hundred and sixty (360) days of the date on which this CAFO is mailed or hand-delivered to Respondent.

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Fifty Thousand Dollars (\$50,000.00) and total interest payments in the amount of Two Hundred and Sixty-Three Dollars and Sixty-Nine Cents (\$263.69).

- 103. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 102, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent

shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 106, 107 and 108, below, in the event of any such failure or default.

104. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 102, above, Respondent may pay the entire civil penalty of Fifty Thousand Dollars (\$50,000.00) within thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as described in Paragraph 106, below. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
105. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
106. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
107. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
108. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
109. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to Paragraph 102, above, and/or the full penalty, pursuant to Paragraphs 100, 103 or 104, above, and/or any administrative fees and late payment penalties, in

accordance with Paragraphs 106, 107, or 108, above, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference its name and address, and the Docket Number of this action, i.e., RCRA-03-2010-0259;
- b. All checks shall be made payable to **"United States Treasury"**;
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:
Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

- j. Payment by Respondent shall reference Respondent's name and address, and EPA Docket Number of this CAFO (Docket No. RCRA-03-2010-0259). A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

James Heenehan
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

And

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

110. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.

V. FULL AND FINAL SATISFACTION

111. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. §6928(a) and (g), for the violations alleged in this CAFO for the specific violations alleged against Respondent in this Consent Agreement. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.
112. The settlement embodied in this Consent Agreement is based in part upon an analysis of Respondent's ability to pay a civil penalty. This analysis is based upon information submitted to Complainant by the Respondent, as listed on Exhibit A to this Consent Agreement. Respondent and its undersigned representative, by such representative's signature to this Consent Agreement, certify that the information submitted to EPA regarding Respondent's ability to pay is accurate and not misleading.
113. Respondent is aware that the submission of false or misleading information to the United States government may subject it to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

VI. CERTIFICATION OF COMPLIANCE

114. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CA, is in compliance with the provisions of RCRA, Subtitle C, Subtitle C of RCRA, 42 U.S.C. §§ 6921- 6939e, federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the MdHWMR, COMAR Title 26, Subtitle 13 *et seq.*, at the Baylis and Pulaski Facilities referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with Subtitle C of RCRA.

VII. RESERVATION OF RIGHTS

115. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

VIII. OTHER APPLICABLE LAWS

116. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations.

IX. AUTHORITY TO BIND THE PARTIES

117. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto. By his/her signature hereto, Respondent certifies that he/she is fully authorized to enter into the terms and conditions set forth in this CA and to bind the Respondent hereto.

X. ENTIRE AGREEMENT

118. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the attached Final Order.

XI. EFFECTIVE DATE

119. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

05/20/10
Date

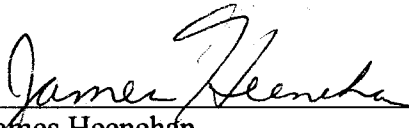
Eastern Plating Company, Inc.

Michael K. Carter
by:

For Complainant:

5/26/10
Date

**U.S. Environmental Protection Agency,
Region III**


James Heenehan
Sr. Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

6/1/10
Date

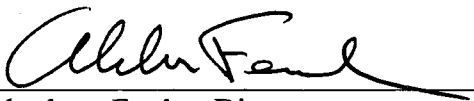

Abraham Ferdas, Director,
Land and Chemicals Division
EPA Region III

Exhibit A

Documents Submitted by Respondent to Support its Ability-to-Pay Penalty Mitigation Position

1. 2005 Eastern Plating Company, Inc. Tax Return;
2. 2006 Eastern Plating Company, Inc. Tax Return;
3. 2007 Eastern Plating Company, Inc. Tax Return;
4. 2007 Eastern Plating Company, Inc. Tax Return;
5. M&T Bank Bank Statements for Eastern Plating Company, Inc. for:
 - a. May 2009 – Dec. 2009 Commercial Savings Statements;
 - b. Jan. 2009 – Jan. 2010 Commercial Checking Statements;
 - c. Aug. 2009 – Jan. 2010 Commercial Loan Invoices;
 - d. June 2009 – Dec. 2009 Term Loan Statements;
 - e. Aug. 2009 – Dec. 2009 Equipment Loan Invoices (#117);
 - f. Aug. 2009 – Dec. 2009 Equipment Loan Invoices (#141);
 - g. Aug. 2009 – Jan. 2010 Mortgage Statements;
6. Eastern Plating Company, Inc. 2008/2009 Monthly Billing Summary; and
7. Feb. 1, 2010 Extended Summary of Positions for Eastern Plating Company, Inc. (financial).

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**Eastern Plating Company, Inc.
1200 South Baylis Street
Baltimore, Maryland 21224**

Respondent

**7803 Pulaski Highway
Baltimore, Maryland 21237
EPA Facility ID No. MD0000136366**

And

**1200 South Baylis Street
Baltimore, Maryland 21224
EPA Facility ID No. MDD063215453**

Facilities

Docket No. RCRA-03-2010-0259

**Proceeding under Section 3008(a) and
(g) of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a) and (g)**

FINAL ORDER

Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency - Region III, and Respondent, Eastern Plating Company, Inc., have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of

Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), IT IS HEREBY ORDERED that Respondent pay a civil penalty of **Fifty Thousand Dollars (\$50,000.00)**, as set forth in Section IV of the Consent Agreement, and to comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

6/8/10
Date:

Renée Sarajian
Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III